

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 18023 of 2000

Between:

- 1 R. Viswanadham s/o. Late Simhachalam
R/o. Visakhapatnam.
- 2 R.Appala Raju s/o. Late Simhachalam
R/o. Visakhapatnam.
- 3 R. Krishna Rao s/o. Late Simhachalam
R/o. Visakhapatnam.

..... PETITIONERS

AND

- 1 Visakhapatnam Municipal Corporation rep. by its
Commissioner, Visakhapatnam.
- 2 Visakhapatnam Urban Development Authority,
rep. by its Vice Chairman, Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring as illegal and arbitrary the action of the 1st Respondent in seeking to lay the 80 feet ring road from Akkayyapalem to Thatichetlapalem, Visakhapatnam contrary to revised alignment plan in R.D.Plan No.4/98 approved by the 2nd Respondent and communicated by its letter RC.No.D.DIS.1112/98-G1 dated 16.12.1998 and issue a consequential direction to lay the said road as per the said revised alignment plan and as directed in its letter RC.no.120/98-G1 dated 16.02.1999 and further direct the Respondents to award compensation to the petitioners for acquiring 303.33 Sq.Yds. for the purpose of laying the said road i.e. R.D.Plan No.4/98.

**Counsel for the Petitioner : Mr. A.Venkataramana, Advocate representing
MR.D.V.SITARAMAMURTHY**

Counsel for the Respondents : Mr. T.S.Venkataramana, SC for Municipalities.

The Court made the following :

ORDER :

The petitioners herein purchased the land admeasuring Acs.1-50 in Survey No.63 of Akkayyapalem under a registered sale deed dated 7-8-1969. It appears, first respondent herein informed the second respondent about the revised alignment plan of 80 feet ring road from Akkayyapalem to Thatichetlapalem, duly modifying the Road Development (RD) Plan No.4/98. Accordingly, a notification was published on 23-8-2000 inviting objections therefor. Petitioners allegedly filed objections on 13-9-2000 *inter alia* contending that if the alignment plan is revised as suggested by the second respondent they would be losing the land and put to loss. The petitioners allege that the respondents deviated from the revised road plan only to help certain influential people for extraneous considerations. Aggrieved by the laying of the road as per pre-revised R.D.Plan, they filed the present writ petition seeking a declaration that the action of the first respondent in laying 80 feet wide road contrary to the revised alignment, is illegal and in contravention of law. They also seek a direction to the respondents to award compensation to the petitioners in respect of the land admeasuring 303-33 Sq.Yards, which was utilized for laying the road.

First respondent filed a counter affidavit opposing the writ petition. It is stated that the Government of Andhra Pradesh issued G.O.Ms.No.440 sanctioning 80 feet wide road from Nakkavanipalem Junction to Kancharapalem as proposed by the first respondent. But due to various reasons, the same could not be implemented. In 1997, first respondent, so as to implement the Master Plan as sanctioned by the Government in G.O.Ms.No.440, informed the affected people to attend the meeting and requested their consent for laying of 80 feet wide road as per R.D.Plan No.4/98. After hearing the objections, the work was taken up and the laying of 80 feet wide road was completed. It is also alleged that the petitioners did not appear nor raised any objections, however, applied for construction of a building over an extent of 222 Sq.Yards, which was duly granted on 21-8-1990 for residential purpose. They deviated the construction by constructing the shops for commercial purpose. Therefore, subsequently, permission was cancelled by proceedings dated 16-8-1996 for misrepresenting the factual position. The laying of 80 feet wide road as per the original plan is justified stating that if the revised plan is implemented, several properties will be affected again and it would necessitate acquiring of other properties at the northern side.

The main grievance of the petitioners, as projected by the learned counsel for the petitioners Sri A.Venkataramana, is that if the respondents implement the revised R.D.Plan No.4/98 the petitioners would not lose any land. However, though the revised plan was approved by the second respondent, the Corporation laid the road

as per the pre-revised plan, which effected the petitioners' land. Therefore, he pleads that the respondent-Corporation is liable to pay compensation to the petitioners. **Per contra**, the learned standing counsel for Visakhapatnam Municipal Corporation submits that the petitioners are owning excess vacant land and also occupied *Gedda Poramboke* land in Survey No.68 and with a view to get the compensation for the said land, the present writ petition is filed. The learned standing counsel, however, does not dispute that the representation made by the petitioners on 13-9-2000 remains undisposed of.

There is a dispute as to whether the land used for laying of 80 feet wide road as per the revised plan is *Gedda Poramboke* land and that the land belongs to the petitioners. Therefore, it would be better to dispose of the writ petition directing the first respondent to consider the representation made by the petitioners on 13-9-2000. It shall be open to the petitioners to produce the documentary evidence in proof of allegation that land admeasuring 303-33 Sq.Yards is affected in the road widening for laying the road from Akkayyapalem to Tadichetlapalem. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition, with the above observations, is disposed of. No costs.

(V.V.S.RAO, J.)

21-09-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Visakhapatnam Municipal Corporation

Visakhapatnam.

2 The Vice Chairman, Visakhapatnam Urban Development

Authority, Visakhapatnam.

3. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.18023 of 2000

21-09-2004.

(Msr)